

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): B.M. Jakobsson

Docket No.: 31

Serial No.: 09/769,511

Filing Date: January 25, 2001

Group: 3639

Examiner: Freda A. Nelson

Title: Call Originator Access Control Through User-Specified
Pricing Mechanisms in a Communication Network

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

Applicant (hereinafter referred to as "Appellant") hereby appeals the final rejections of claims 2-6 and 8-19 of the above-referenced application.

REAL PARTY IN INTEREST

The present application is assigned to Lucent Technologies Inc. The assignee, Lucent Technologies Inc., is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals and interferences.

STATUS OF CLAIMS

Claims 2-6 and 8-19 are pending in the application. Claims 16-19 are the independent claims. All the claims stand rejected under 35 U.S.C. §103(a). All the rejections are respectfully traversed.

STATUS OF AMENDMENTS

There have been no amendments filed subsequent to the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The invention provides improved techniques for controlling access of telemarketers or other types of call originators to user terminals of a communication system. Specification, p. 2, lines 9 and 10.

Independent claim 16 sets forth a method for controlling access of call originators to user terminals in a communication system. This method includes a step comprising storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal. In another step, the amount to charge an originator of a given incoming call directed to the user terminal is determined based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information. The user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing and determining steps.

FIG. 1 and its associated description, for example, describe an illustrative embodiment in which aspects of claim 16 may be implemented. In FIG. 1, the claimed call originators are embodied by the telemarketing call centers 102-N, while the claimed user terminals are embodied by the user terminals 104-M. The claimed service provider is embodied by service provider 108. FIG. 4 and its associated description go on to describe an example access control process implemented in the illustrative FIG. 1 system. See, e.g., the Specification, p. 8, line 23 through p. 10, line 12. The

first step of the claimed method is embodied by step 400 in FIG. 4. The second step of the claimed method, in turn, is embodied by steps 404 through 420.

Advantageously, the claimed method reduces the likelihood that a given consumer or other user will receive unwanted calls, while also providing information that can be used by telemarketers and other call originators to better target their calls. Specification, p. 3, lines 19-21.

Independent claims 17-19 set forth processor, software and apparatus variants, respectively, of independent claim 16.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 2-5, 8-12 and 15-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,568,541 (hereinafter “Greene”) in view of U.S. Patent No. 6,240,402 (hereinafter “Lynch-Aird”) in further view of U.S. Patent No. 5,958,016 (hereinafter “Chang”).

2. Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of U.S. Patent No. 6,595,424 (hereinafter “Harrison”).

3. Claims 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of Harrison still in further view of U.S. Patent No. 5,148,474 (hereinafter “Haralambopoulos”).

ARGUMENT

Appellant incorporates by reference herein the disclosures of all previous responses filed in the present application.

1. Rejection under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang

Claims 2-5, 8, 10, 11 and 15-19

Independent claim 16 sets forth:

A method for controlling access of call originators to user terminals in a communication system, the method comprising the steps of:

storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal; and

determining an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing and determining steps.

Importantly, it is the user (i.e., the entity receiving the incoming call) in the claimed method that specifies the access cost information rather than the service provider, network operator or other entity. Advantageously, embodiments of claim 16 reduce the likelihood that a given consumer or other user will receive unwanted calls, while also providing information that can be used by telemarketers and other call originators to better target their calls. Specification, p. 3, lines 19-21.

A valid §103(a) rejection requires that the reference or reference combination teach or suggest all the claim limitations. Manual of Patent Examining Procedure, Eighth Edition, August 2001, (MPEP) §2143. In formulating the §103(a) rejection of claim 16, the Examiner argues that the particular limitation of claim 16 that sets forth that the claimed access cost information be user-specified is disclosed by Lynch-Aird at col. 5, lines 27-33; FIG. 4; and col. 6, lines 10-14. Final Office Action, pp. 2 and 3. Appellant respectfully disagrees. Lynch-Aird at col. 5, lines 27-42 states:

Referring to FIG. 4 charging information can be maintained by the network operator in a suitable charging table in which an entry is kept against each allocated recipient identifier [*sic*] indicating the charging scheme associated with the recipient identifier. For example a first unique recipient identifier RID₁ is allocated to recipient R_A and designates that the originator of the call be charged. Recipient identifier [*sic*] RID₂ is also allocated to recipient R_A and designates that recipient R_A should be charged. Recipient identifier [*sic*] RID₃ is also allocated to R_A and indicates that the call originator should be charged, for example at a premium rate, a part of the call revenue going to recipient R_A. Recipient identifier RID₄ is also allocated to recipient R_A and designates that the charge should be shared between the call originator and recipient R_A, for example with each party paying one half of the charge.

Appellant submits that there are at least two fundamental reasons why this portion of Lynch-Aird does not contribute to a valid §103(a) rejection of claim 16. Firstly, the above-quoted text fails entirely to specify that access cost information be user-specified. Instead, it apparently sets forth that the amount that an originator will pay for a given call may be made to depend on the identity of the recipient. Secondly, the above-quoted portion of Lynch-Aird actually teaches away from claim 16. “A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130 (Fed. Cir. 1994). In the above-cited text, Lynch-Aird explicitly states that the charging information is “maintained by the network operator in a suitable charging table” (*emphasis added*). Therefore, one skilled in the art, upon reading this reference, would be discouraged from having the access cost information be specified by the user in accordance with the limitations of claim 16.

Moreover, Lynch-Aird at col. 6, lines 10-14 states that, with respect to charges for a given telephone call, “[t]he charges are determined on the basis of any known system, for example a fixed charge per packet, the charge based on the duration of the packet, a charge based on the distance of the call, the time of day, the packet type and so forth.” Again, this statement fails to teach or suggest that the access costs information is user-specified. Rather, Lynch-Aird merely describes some different criteria that a network operator might use in determining the amount to charge a call originator.

The remainder of the references in the proposed reference combination, namely Greene and Chang, fail to correct these fundamental deficiencies in Lynch-Aird with respect to the limitations of claim 16. As a result, Appellant respectfully submits that the Greene/Lynch-Aird/Chang reference combination fails to teach or suggest all the limitations of claim 16, and that the §103(a) rejection is in this way deficient.

It should be noted that the Examiner responds to the above arguments by stating:

The examiner asserts that Greene teaches “user-specified access cost information” (“*subscriber’s specified call billing parameters*” and “*the billing system credits a portion of the charges to person called*”), Lynch-Aird teaches “storing for a given user terminal of the system a set of user access cost information” (“*the network may include a data storage area for storage of user information*” and “*an originator identifier indicates that the corresponding customer originated the call and will accept the call charging scheme as determined by the recipient identifier*” and “*a recipient identifier indicates that the corresponding customer received the call and would also determine how the call charges should be allocated*”[]).

Final Office Action, pp. 5 and 6.

With respect to the above-quoted language from Greene, Appellant notes that Greene refers to “subscriber’s specified call billing parameters” (*emphasis added*) rather than subscriber-specified call billing parameters. Moreover, the Examiner explicitly states on p. 2 of the final Office Action that “Greene does not disclose that the user-specified access cost information includes one or more access rules specified by the user and indicates a particular access cost for an incoming call under one or more specified conditions.” As a result, Greene, like Lynch-Aird, does not teach or suggest “user-specified access cost information” like that claimed in claim 16.

With respect to the above-quoted language from Lynch-Aird, Appellant respectfully submits that this language does not correct the fundamental deficiencies in the proposed reference combination described above (e.g., that the proposed reference combination does not teach or suggest that the access cost information be user-specified as claimed).

In addition, with respect to claim 16, Appellant notes that the Examiner states on p. 3 of the final Office Action:

Therefore, it would have obvious [*sic*] to one of ordinary skill in the art at the time the invention was made to modify the invention of Greene to include the feature [*sic*] of Lynch-Aird and Chang et al. in order to provide recipient identifiers to indicate that the corresponding customer received the call and also to determine which party pays (Lynch-Aird; col. 6, lines 17-35).

For a valid §103(a) rejection, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” MPEP §2143. Appellant respectfully submits that these requirements have not been met with respect to claim 16. Instead, the Examiner in the above-quoted text merely cites a seemingly arbitrary portion of Lynch-Aird that fails to describe how one skilled in the art would be motivated to combine relevant aspects of the three references. For example, the Examiner argues that the particular limitation of claim 16 wherein “the user-specified cost information is at least in part entered by the user at a web site” is allegedly taught or suggested by Chang (Final Office Action, p. 3), but then provides absolutely not motivation to combine this aspect of Chang with aspects of the other references (i.e., Greene and Lynch-Aird). The above quoted language is, therefore, entirely insufficient to support an obviousness rejection.

Independent claims 17-19 contain limitations similar to claim 16 and are therefore believed to be in condition for allowance for reasons similar to claim 16. Moreover, claims 2-5, 8, 10, 11 and 15 are also believed to be in condition for allowance for at least the same reasons as their base claim, claim 16.

Claim 9

Dependent claim 9 is believed to be in condition for allowance for at least the reasons stated above with respect to its base claim, independent claim 16. In addition, the §103(a) rejection of claim 9 is believed to contain additional defects.

Claim 9 sets forth “[t]he method of claim 16 wherein the set of user-specified cost information is stored in a database associated with the user terminal.” However, in the final Office Action, the Examiner fails to point out with any level of specificity where the proposed reference

combination teaches or suggests this limitation. Appellant respectfully submits that none of the references in the proposed reference combination, in fact, teach or suggest such a limitation. As a result, the rejection of this claim is untenable.

Claim 12

Dependent claim 12 is believed to be in condition for allowance for at least the reasons stated above with respect to its base claim, independent claim 16. In addition, claim 12 is believed to contain separately patentable subject matter over the proposed reference combination.

Claim 12 sets forth “[t]he method of claim 11 wherein the waiver of the access cost is in response to an offer from the call originator made after the incoming call is routed to and accepted at the user terminal.” In formulating the §103(a) rejection, the Examiner argues that the limitations of this claim are taught or suggested by Greene at col. 3, line 67 through col. 4, line 4. Final Office Action, p. 4. Appellant respectfully disagrees. The above-cited portion of Greene states:

If, for example, the subscriber is sympathetic to a particular charity or solicitation, he or she may void the surcharge at any time during the conversation by causing the call to bypass the billing and crediting functions as shown in steps 14 and 16.

One skilled in the art will immediately recognize that this portion of Greene fails entirely to teach or suggest that a waiver of the access cost is a result of an offer and an acceptance in the manner claimed. As a result, the rejection of this claim is untenable.

2. Rejection under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of Harrison

Claim 6

Appellant respectfully submits that Harrison fails to remedy the fundamental deficiencies of Greene, Lynch-Aird and Chang with respect to independent claim 16. Dependent claim 6 is therefore believed to be in condition for allowance for at least the reasons stated above with respect to its base claim, independent claim 16.

3. Rejection under 35 U.S.C. §103(a) as being unpatentable over Greene in view of Lynch-Aird in further view of Chang still in further view of Harrison still in further view of Haralambopoulos

Claims 13 and 14

Appellant respectfully submits that Harrison and Haralambopoulos fail to remedy the fundamental deficiencies of Greene, Lynch-Aird and Chang with respect to independent claim 16. Dependent claims 13 and 14 are therefore believed to be in condition for allowance for at least the reasons stated above with respect to their base claim, independent claim 16. In addition, the §103(a) rejection of these claims is believed to contain additional defects.

Claim 13 sets forth:

The method of claim 16 wherein the set of user-specified access cost information comprises one or more access rules specified by the user and indicating a particular access cost for an incoming call under one or more specified conditions, and at least one of the one or more access rules is associated with an identifier of a particular call originator.

In formulating the §103(a) rejection of this claim, the Examiner argues that the claimed access rules are taught or suggested by Haralambopoulos’s “plurality of individual value-added telephone numbers.” Final Office Action, p. 5. Appellant respectfully disagrees. Haralambopoulos describes a system wherein the charges incurred by the caller are determined after the caller dials the called party. Haralambopoulos, col. 5, lines 32-35. More specifically, if during the course of a conversation it is determined that the caller is to be charged, the caller is asked to dial a “value-added exchange number” which establishes a billing rate for the remainder of the call. Haralambopoulos, col. 5, lines 35-48. As a result, Haralambopoulos describes a system which depends on an action by the called party. Claim 13, on the other hand, describes a system in which any access costs incurred by the caller are dependent on “one or more specified conditions” associated with an incoming call. These conditions are intrinsic to the incoming call and no actions by the caller during a conversation

are required to establish a billing rate. The proposed reference combination, therefore, fails to teach or suggest every limitation of claim 13.

In addition, Haralambopoulos changes the principle of operation of the primary reference, Greene. “If a proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” MPEP §2143.01, *citing In re Ratti*, 270 F.2d, 810, 123 USPQ 349 (CCPA 1959). In the embodiment of Greene relied on by the Examiner in formulating the §103(a) rejection, Greene describes an automated approach to assigning a billing rate to an incoming call involving identifying the number of the calling party. Greene, col. 3, lines 39-44. Haralambopoulos, in contrast, describes a system that depends on user actions during a conversation to assign a billing rate. Haralambopoulos, col. 5, lines 32-48. Therefore, Haralambopoulos, by depending on user actions instead of an automated process, substantially changes the principle of operation of the system described by Greene. These prior art reference cannot, as a result, be combined to create a valid *prima facie* obviousness rejection.

Claim 14 contains limitations similar to claim 13. As a result, claim 14 is believed to be in condition for allowance for the same reasons stated above with respect to claim 13.

In view of the above, Appellant respectfully requests the withdrawal of the §103(a) rejections.

Respectfully submitted,



Date: July 10, 2006

Michael L. Wise
Attorney for Appellant(s)
Reg. No. 55,734
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-2722

CLAIMS APPENDIX

1. (Canceled)
2. The method of claim 16 wherein the access cost is presented to the originator of the given incoming call and the incoming call is routed to the user terminal only if the presented access cost is approved by the originator of the given incoming call.
3. The method of claim 16 wherein the access cost is charged to the originator and credited at least in part to an account of a called party associated with the user terminal.
4. The method of claim 16 wherein the user terminal comprises a telephone.
5. The method of claim 16 wherein the user terminal comprises a computer.
6. The method of claim 16 wherein the user terminal comprises a personal digital assistant.
7. (Canceled)
8. The method of claim 16 wherein the set of user-specified cost information is stored in a database associated with a service provider that implements the determining step.
9. The method of claim 16 wherein the set of user-specified cost information is stored in a database associated with the user terminal.
10. The method of claim 16 wherein the originator of the given incoming call comprises a telemarketer.

11. The method of claim 16 wherein a user associated with the terminal is permitted to waive the access cost for the given incoming call.
12. The method of claim 11 wherein the waiver of the access cost is in response to an offer from the call originator made after the incoming call is routed to and accepted at the user terminal.
13. The method of claim 16 wherein the set of user-specified access cost information comprises one or more access rules specified by the user and indicating a particular access cost for an incoming call under one or more specified conditions, and at least one of the one or more access rules is associated with an identifier of a particular call originator.
14. The method of claim 16 wherein the set of user-specified access cost information comprises one or more access rules specified by the user and indicating a particular access cost for an incoming call under one or more specified conditions, and at least one of the one or more access rules is applied to a plurality of incoming calls regardless of the particular call originator associated therewith.
15. The method of claim 16 wherein the user-specified access cost information is at least in part entered by the user at the user terminal via a menu-driven user interface.
16. A method for controlling access of call originators to user terminals in a communication system, the method comprising the steps of:
 - storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal; and
 - determining an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing and determining steps.

17. A processor-based system for controlling access of call originators to user terminals in a communication system, the system comprising:

one or more processing elements configured to store for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal;

and to determine an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing of the set of user-specified access cost information and the determining of the amount to charge the originator.

18. A machine-readable medium containing one or more software programs for controlling access of call originators to user terminals in a communication system, wherein the one or more programs when executed implement the steps of:

storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal; and

determining an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing and determining steps.

19. An apparatus for use in controlling access of call originators to user terminals in a communication system, the apparatus comprising:

 a memory for storing for a given user terminal of the system a set of user-specified access cost information to be applied to one or more incoming calls directed to the user terminal; and

 a processor coupled to the memory and operative to determine an amount to charge an originator of a given incoming call directed to the user terminal based at least in part on an access cost for the given incoming call as determined from the user-specified access cost information;

 wherein the user-specified access cost information is at least in part entered by the user at a web site associated with a service provider that implements the storing of the set of user-specified access cost information and the determining of the amount to charge the originator.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None